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August 10, 2017

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol Room 2206
Sacramento, CA 95814

AB 1479 (Bonta): CALIFORNIA PUBLIC RECORDS ACT CUSTODIAN - OPPOSE

Fiscal Impact: None

Dear Senator Lara:

The Kern County Board of Supervisors strongly opposes AB 1479 (Bonta), which would place substantial burdens on local agencies by adding onerous, costly and unnecessary requirements in processing California Public Records Act (CPRA) requests. As proposed, the bill would mandate that until January 1, 2023, every local agency assign a "custodian of records" to review each public records act denial prior to the final determination being issued. Additionally, the measure establishes new and costly civil penalties assessed to agencies above and beyond plaintiffs' attorney fees established under current law.

The proposed legislation provides no guidance, nor explanation, as to what useful purpose the custodian of records would serve that is not already being appropriately performed by other agency officials, nor does it give any guidance as to what qualifications a candidate would require in order to adequately perform the job. AB 1479 would also provide that a court may impose punitive damages of not less than \$1,000 nor more than \$5,000 on an agency if the court finds that the agency, the custodian of records, or another public official of the agency:

- Improperly withheld a record from a member of the public without justification
- Failed to furnish a properly requested record or portion of a record in a timely manner
- Assessed an unreasonable fee upon a requester, or
- Otherwise did not act in good faith to comply with the CPRA

Despite recent amendments to soften the impact by increasing the legal threshold for the basis of fines and adding language to provide flexibility in more complex public records requests, this bill remains unnecessary. Existing remedies contained in Section 6259 of the Government Code already provide the public with appropriate relief. Moreover, at least with regard to the assessment of an unreasonable fee, existing law only allows an agency to charge a requester for the direct cost of duplication.

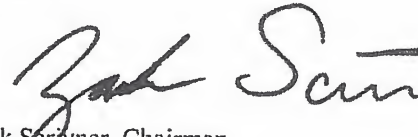
Kern County regularly receives voluminous requests for public records and some can be fairly described as fishing expeditions that require many hours of research, copying, and review even before Counsel can review them with regard to whether they can be disclosed or what redacting may be required to make the records disclosable under the law.

Individuals could, and often do, inundate county staff with numerous and very broad records requests. Although permitted under the law, these types of requests would now put the County at risk of punitive damages for failing to respond timely as recommended by AB 1479.

Local agencies strive to comply with the strict guidelines inherent with the CPRA; this measure runs counter to that intent. AB 1479 would cause further delays in processing requests by creating an additional step in the process whereby every request denial would have to be reviewed by the custodian of record before a final determination from the agency can be issued. These proposed changes are redundant, are counter to the lean principles the County is striving for, and add no measurable benefit to the public good.

For these reasons, the Kern County Board of Supervisors respectfully asks that you vote **NO** on AB 1479.

Sincerely,



Zack Scrivner, Chairman
Kern County Board of Supervisors

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cc: Honorable Members of the Senate Appropriations Committee
Kern County Legislative Delegation
Paul Yoder, Shaw/Yoder/Antwih